

WATER/VDR/RHG

Decision 02-11-015 November 7, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF  
CALIFORNIA**

Investigation on the Commission's own motion into the operations, practices, rates and charges of the Hillview Water Company, Inc., a corporation, and Roger L. Forrester, the principal shareholder and president.

Investigation 97-07-018  
(Filed July 16, 1997)

In the Matter of the Application of HILLVIEW WATER COMPANY, INC. U-194-W, for Authority to issue evidence of indebtedness (Promissory Note and Loan Agreement) and to grant security interest in its assets.

Application 00-10-043  
(Filed October 19, 2000;  
amended March 15, 2001)

**O P I N I O N**

**Summary**

This decision grants Hillview Water Company, Inc. (Hillview) the authority requested in Application (A.) 00-10-043 (Application), as amended, and consolidated with Investigation (I) .97-07-018.

As shown in the Application, Hillview requests authority, pursuant to § 816 et. seq. of the Public Utilities (PU) Code and Rule 33 of the Commission's Rules of Practice and Procedure to enter into a loan agreement with the Department of Water Resources (DWR) to borrow \$3,408,447 under the Safe Drinking Water State Revolving Fund (SDWSRF); to encumber its assets in connection with the loan; and to place in effect a surcharge on

existing water rates for the purpose of amortizing the loan and accumulating a sinking fund reserve equal to one year's debt service.

The proceeds of the loan are to be used for construction of new wells, new raw water transmission line, new treated water transmission line, upgrade of treatment plants, new storage tank, and other water system improvements for the Oakhurst and Sierra Lakes (OSL) districts required under the safe water drinking standards set forth by the state Department of Health Services (DHS).

Notice of the filing of the Application appeared on the Commission's Daily Calendar of October 27, 2000. At that time, eleven protest letters were received.

On September 18, 2002, the utility together with DHS and Commission staff conducted a public meeting at Oakhurst, California to explain the need for system improvements, the proposed loan, impacts the project will have on rates, and to address customers' concerns. Most of the customers appeared to understand the benefits that would result from plant improvements purchased by the loan proceeds as well as the need to add a rate surcharge for repayment of the loan. No formal protests were received after the September 18, 2002 meeting, and the Application is currently uncontested.

## **Background**

Hillview, a California corporation, is a Class C water utility under the jurisdiction of this Commission. Hillview owns and operates the OSL water system, which serves the area in and around Oakhurst in the foothills of eastern Madera County. The water system serves approximately 1005 connections (about 877 with ¾" meter size). In

addition, the community hosts an estimated one million visitors per year that pass through on their way to Yosemite National Park.

Pursuant to Hillview's 2001 Annual Report, the utility generated total operating revenues of \$961,179 and net loss of \$22,942. Schedule A of the 2001 Annual Report shows the company's balance sheet as of December 31, 2001, which is summarized below:

<u>Assets</u>	<u>Amount</u>
Net Utility Plant	\$4,238,459 <sup>1</sup>
Current and Accrued Assets	203,379
Other Assets	<u>607,043</u>
Total Assets	<u>\$5,048,881</u>
<u>Liabilities &amp; Equity</u>	
Common Stockholders' Deficit	\$ (76,574)
Long-Term Debt	1,355,309
Current and Accrued Liabilities	1,312,584
Deferred Credits	725,875
Net Contributions in Aid of Construction	<u>1,731,687</u>
Total Liabilities & Equity	<u>\$5,048,881</u>

This proceeding is an investigation of Hillview regarding possible violations of statutes and regulations in connection with, among others, utility investment in plant and dealings with customers obtaining water service. Ordering Paragraph 7 of the Order Instituting Investigation

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<sup>1</sup> Includes \$271,711 construction work in progress.

I.97-07-018 dated July 6, 1997 (the OII) states:

Until further order, any proposals to increase rates or charges submitted to the Commission on behalf of Hillview, as well as any individual complaints filed against Hillview, shall be consolidated with this enforcement proceeding for consideration.

Accordingly, the instant application (A.00-10-043) was consolidated with I.97-07-018.

On September 8, 1997, DHS issued Hillview a Compliance Order No. 03-11-970-002 for failure to comply with the Uranium MCL and failure to insure that customers are provided with a reliable and adequate source of pure, wholesome, healthful and potable water. Many customers are using bottled water to meet drinking water needs as a result of this problem.

DHS ordered Hillview, among others, to:

1. (a) Cease and desist from failing to comply with the California Health and Safety Code (CHSC), Sections 4017(a) and (c) and the California Code of Regulations (CCR), Section 64441 by insuring that the Oakhurst-Sierra Lakes Water System (System) is provided with a reliable and adequate source of pure, wholesome, healthful and potable water which is in compliance with all primary water standards.
- (b) By October 1, 1997, the System shall submit to DHS, for review and approval, a proposed project developed to correct the current water quality problem and eliminate the need to deliver water to the consumers, which does not meet the primary drinking water standards. The proposed project shall include a time schedule for completion.

(c) Complete all the improvements and/or additions outlined in the proposed project submitted pursuant to Provision (b) above in accordance with the time schedule to be reviewed and approved by DHS.

(d) The System shall not provide water service to any new subdivision, which will require either the expanded use of existing sources of supply, and/or sources that do not meet all primary drinking water standards. This does not apply to sources, new or existing, for which proper treatment is provided and permitted by DHS.

(e) The System shall minimize the use of Sierra Lakes Well No. 4 and Pierce Lake Well No. 1 as much as possible. In addition, the System shall not use Highland View Wells Nos. 1 or 2 under any circumstances.

(f) The System shall provide public notification regarding the inability to meet the uranium maximum contaminant level (MCL), at least once every three months in accordance with Section 64464.3 CCR.

(g) The System shall continue the monthly monitoring as required by Directive 6(a), of Permit No. 03-11-96P-001, until further notice from DHS. Pierce Lakes Well No. 1, recently reactivated, is to be included in the monthly monitoring program. In addition, the System shall perform the required radiological monitoring for all active wells, reactivated wells and new wells on quarterly intervals for one year every four years as specified in Section 64441, Title 22, CCR.

2. If the system is unable to perform the tasks specified in this Order for any reason, whether within or beyond their control, and if the system notifies DHS in writing no less than five days in advance of the due date, DHS may extend the time for performance if the System demonstrates that it has used its best efforts to comply with the schedule and other requirements of this Order.

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3. If the system fails to perform any of the tasks specified in this Order by the time described herein or by the time as subsequently extended pursuant to paragraph 2 above, the System shall be deemed to have not complied with the obligations of this Order and may be subject to additional judicial action including civil penalties specified in CHSC, Sections 116725 and 116730.

On November 30, 1999, DHS completed a review of the water system and directed Hillview to develop additional source capacity.

Hillview submitted a long-term construction loan application for the SDWSRF on May 10, 2000 for its OSL System. DHS approved the funding for the project on or about August 17, 2000. Pursuant to DHS' Technical Project Report approved on August 17, 2000, there is a lack of adequate production, treatment, and distribution capacity within Hillview's Oakhurst-Sierra Lakes water system.

On September 20, 2000, Hillview petitioned to modify I.97-07-018. Hillview requests to delete the requirement in the OII that all proposals to increase rates and other new charges be consolidated with this enforcement proceeding for consideration<sup>2</sup>. The petition argues that the company desperately needs a rate increase and authorization to recover costs and charges set forth in various pending advice letters filed since 1997, and that new rates will permit a lender to ascertain the company's future cash flow and ability to service new debt. Hillview believes that the current requirement to consolidate requests for these increases could delay any relief until the OII is closed. By D.02-01-041, the Commission did

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<sup>2</sup> The specific provision Hillview seeks to modify is Ordering Paragraph 7, which says, "Until further order, any proposals to increase rates or charges submitted to the Commission on behalf of Hillview, as well as any individual complaints against Hillview, shall be consolidated with this enforcement proceeding for consideration." Hillview proposes, without providing suggested language that we "eliminate the

modify its order so that future requests for water quality loans could be considered outside of the instant investigation. However, because this Application was not expressly removed from this proceeding, approval of this loan is processed as part of I.97-07-018.

On October 19, 2000, Hillview filed A.00-10-043 and on March 15, 2001, filed an Amended Application requesting for additional authority to enter into a funding agreement with DWR for a \$25,000 planning loan under the SDWSRF to be used to finance the cost of studies, planning, and preliminary engineering in conjunction with the proposed construction project in the Oakhurst and Sierra Lakes districts.

Decision (D.) 01-05-006 dated May 3, 2001 in A.00-10-043 granted Hillview authority to borrow up to \$25,000 planning loan from DWR and due to the proposed surcharge rate, A.00-10-043, as amended was consolidated with I.97-07-018. The planning loan has a term not to exceed five years at zero-percent interest with semi-annual payments.

On August 19, 2002, The Department of Health Services (DHS) approved a \$3,408,447 loan for Hillview at a zero-percent interest, payable in 30 years. The loan agreement requires among other things, a surcharge to cover the loan debt service and a reserve requirement.

### **Notice and Protests**

Hillview notified customers of its Oakhurst and Sierra Lakes districts of the proposed surcharge by publication in the Fresno Bee on December 9, 2000, and by individual notice mailed on December 11, 2000. Eleven letters protesting the surcharge were received between December

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requirement that all rate increases and other new charges to Company customers be consolidated in the OII.”



15 and December 21, 2000. Some of the concerns raised by the customers were: no guarantee for adequate water supply nor better quality of water meeting the safe drinking standards set forth by DHS; the utility should bear the cost of the project; and customer bills are currently high.

Subsequently, a public meeting was held in Oakhurst on September 18, 2002 to address the \$3.4 million project, the SDWSRF loan, and the proposed surcharge rate. The meeting opened with the presentation of the water system problems, the proposed solutions, the proposed loan, the surcharge rate to repay the loan, and the guarantees to ensure that the project will be monitored and completed. The customers raised questions on the integrity of the utility, the assurance for sufficient and drinkable water, the project cost, community takeover of the utility, and the forming of a municipality or water district. Having been convinced of the gravity of the water issues, the need to construct now, and the cost savings from a SDWSRF loan, the meeting concluded with a positive support for the project from the majority of the customers.

To date no further protests were received from other customers.

### **The System Improvement Projects**

The OSL water system does not have adequate source of treatment capacity. In addition, the distribution system is unable to adequately distribute treated water and meet summer water demands. To prevent water outages, Hillview utilizes two sources that do not meet the primary drinking water standard for uranium. One of the two wells is treated; however, the existing treatment system cannot effectively remove the uranium to meet the drinking water standard. The distribution system does not have enough hydraulic capacity to efficiently distribute the treated water. Hillview has

implemented mandatory water conservation measures.

The OSL System lacks adequate production, treatment, and distribution capacity, which have produced severe water shortages and the failure to meet certain safe drinking water standards. The water system pumps groundwater from 10 hard rock wells with a capacity of about 780 gpm. The water is treated at two locations (Sierra Lakes and Forest Ridge) to remove iron and manganese. At the Sierra Lakes location the water is treated to remove uranium as well. Treated water and water not needing treatment are distributed through 13 pressure zones and 18 storage tanks.

On May 2002, Hillview submitted to the Merced District Office of the Drinking Water Field Operations Branch a revised engineering report for the proposed project and the focused environmental impact report. There are significant waste disposal issues associated with the uranium removal treatment process for the Sierra Lakes Treatment Plant upgrades that could not be satisfactorily resolved. Therefore, the project was revised to delete the uranium removal improvements and add the construction of five more wells to replace the source capacity of Sierra Lakes Well No. 4.

Hillview 's revised project as presented in its Revised Technical Project Report consists of:

New Wells

Includes the construction of ten new wells due to the elimination of the uranium treatment improvements. The wells would be constructed in an area that has not been previously utilized by Hillview. It has been confirmed that the area has the potential to produce good water. Hillview has drilled a test hole and obtained easements for at least five of the well sites and the transmission line from the well sites to the Sierra Lakes Treatment Plant. It is anticipated that the new wells will produce between

50 and 100 gpm each. The additional production capacity provided by the new wells is needed to meet current demands.

#### Raw Water Transmission Line

Approximately 11,500 feet of 8-inch diameter transmission line will be constructed from the new wells to the Sierra Lakes Treatment Plant. There will be no service connections off the transmission line. The line will allow the piping of raw water to a centralized treatment, storage, and distribution site. This will allow for optimization of the existing system to distribute treated water throughout the OSL system. The ability to treat the water from the new wells is necessary to assure that they can be used in the system.

#### Sierra Lakes Treatment Plant Upgrades

Several upgrades to the Sierra Lakes Treatment Plant are proposed. The upgrades include replacement of the media in the existing pressure filter and construction of new treatment facilities. The new treatment facilities would include up to four pressure filters (depending on new well production and water quality), 100,000-gallon reclamation tank, sludge press, booster pumps, telemetry system, and two standby generators. These improvements are necessary to remove iron and/or manganese from water currently produced from the existing wells and to improve production reliability. One standby generator will be used to provide backup power for the plant and the other standby generator will be used to provide backup power for Sierra Lakes Well No. 1A, which produces about 170 gpm. However, until the new wells are drilled and sampled, it is unknown whether additional filters will be needed. Therefore, the Sierra Lakes Treatment Plant upgrades would not be undertaken until the production and water quality of the new wells are determined. If all the

upgrades are needed, it is anticipated that they will increase the treatment capacity of the treatment plant from 500 gpm to 1,000 gpm.

#### New Storage Tank

A 300,000-gallon steel tank is proposed to be constructed at the Sierra Lakes Treatment Plant. The tank would store treated water for distribution to Tank No. 1 or the Sierra Lakes area. Increased storage is necessary to reduce the duration of pumping from the new wells, thus conserving the resource. Since the Sierra Lakes Treatment Plant will provide 80 percent of the OSL water, additional storage is needed to optimize the operation of the distribution system.

#### Treated Water Transmission Line

To improve distribution of treated water, a new 12-inch diameter transmission line would be installed from the Sierra Lakes Treatment Plant to Tank No. 1, which is the system's main storage tank. Approximately 8,500 feet of 12-inch diameter PVC pipe would be installed and used exclusively as a transmission line with no service connections. The existing 6-inch diameter pipe, which has numerous service connections, would continue to be used as a water main. Improved distribution of the treated water from the Sierra Lakes Treatment Plant is necessary since this plant would account for more than 80 percent of OSL system's total production.

#### Forest Ridge Treatment Plant Upgrades

Three of Hillview's proposed upgrades to the Forest Ridge Treatment Plant are not eligible for funding at this time. The remaining elements consist of the addition of an automatic chlorination system and a standby generator. The eligible upgrades will improve the reliability of

the treatment plant. The upgrades are necessary to assure a continuous production of water on a reliable basis.

On August 19, 2002, DHS issued its Notice of Application Acceptance for the Hillview project in the maximum amount of \$3,408,447. Because the estimated total cost of the project is \$4,084,241, the proposed project will be prioritized and funded as follows:

1. The focused EIR, new wells, new raw water transmission line, new storage tank, new treated water transmission line, and related project costs (i.e., land, easements, legal, administration, engineering, and contingencies) are the highest priority project components and must be funded and completed before the following lower priority project components are funded. The total estimated cost of the high priority project components is \$2,293,741.
2. The Sierra Lakes Treatment Plant upgrades (\$1,727,000) and the Forest Ridge Treatment Plant upgrades (\$62,500) should be funded as prioritized below if funding is available after completion of the highest priority project components specified in Recommendation 2.a.
  - a. Installation of additional filters at the Sierra Lakes Plant as needed based on the production and water quality of the new wells.
  - b. Installation of a 100,000-gallon reclamation tank, sludge press, and booster pumps at the Sierra Lakes Plant.
  - c. Installation of two standby generators at the Sierra Lakes Plant.
  - d. Installation of a telemetry system at the Sierra Lakes Plant.

- e. Installation of an automatic chlorination system at the Forest Ridge Plant.
- f. Installation of a standby generator at the Forest Ridge Plant.

### Total Estimate

Pursuant to the supplemental data to the Application, Hillview's estimated construction costs are as follows:

<u>Description</u>	<u>Total</u>
Focused Environmental Impact Report	\$ 113,045
New Wells	460,000
New Raw Water Transmission Line	209,296
Sierra Lakes Treatment Plant Upgrade	1,727,000
New Storage Tank	180,000
New Treated Water Transmission Line	408,400
Forest Ridge Treatment Plant Upgrades	62,500
Land and Easements	145,000
Legal and Administration	125,000
Engineering	150,000
Contingencies	<u>503,000</u>
Total Project Cost	<u>\$4,083,241</u>

Due to the financial status of the OSL water system, DHS has set a maximum loan amount for Hillview of \$3,408,447. Therefore, the project components as stated previously, are to be prioritized since the estimated cost of the proposed project is over \$4.0 million.

## **Environmental Impact**

Because Hillview is a private utility, DHS is the lead agency for compliance with environmental impact regulations. DHS has completed an initial study for the project and recommended the completion of a focused environmental impact report. DHS completed a Notice of Preparation of a Draft Environmental Impact report and an Administrative Draft EIR is now under review and comment.

## **Description of Financing**

Hillview seeks authority to enter into a loan agreement with, and to issue a promissory note (Note) to DWR in connection with a proposed long-term loan from the SDWSRF in an amount not to exceed \$3,408,447. The Note will be interest free. It will be payable in equal semi-annual installments over 30 years, with a 10% reserve to be accumulated during the first 10 years. Hillview's obligations under the Note will be secured by all of its assets.

DWR has advised Hillview that the loan agreement will be DWR's standard form of loan agreement.

Pursuant to its supplemental data to the Application, the annual requirements for debt service for the estimated loan principal of \$3,408,447 will be \$125,231 for years 1-10 and \$113,846 thereafter. The amount of the surcharge to repay the principal and to accumulate the necessary reserve on the loan will be in direct proportion to the capacity of each customer's meter or service connection. The estimated surcharges for customers of

the Oakhurst district are as follows:

**PROPOSED SURCHARGE SCHEDULE  
OAKHURST**

Size of Service or Meter	<u>Years 1-10</u>	<u>Years 11-29</u>
	Monthly Surcharge	Monthly Surcharge
¾-inch meter	\$ 7.97	\$ 7.25
1-inch meter	13.29	12.08
1 ½-inch meter	26.57	24.16
2-inch meter	42.52	38.65
3-inch meter	79.72	72.48
4-inch meter	132.87	120.79
6-inch meter	265.75	241.59

The present rate schedule for water service became effective May 6, 1995 in compliance with a consumer price index increase authorized by Decision (D.) 92-03-93:

**Metered Service**

Quantity Rate : Per 100 cu. ft. . . . \$ 1.29

Service Charge:

Size of Service Or Meter	Present RateCo-Bank <sup>3</sup>		Proposed Monthly Surcharge			
	Per Meter Per Month	Loan Surcharge	Years 1 – 10	Percent Increase	Years 11 – 29	Percent
¾" meter	\$ 19.41	\$ 6.18	\$ 7.97	31.1%	\$ 7.25	28.3%
1" meter	32.35	10.32	13.29	31.1%	12.08	28.3%
1 ½" meter	64.70	20.60	26.57	31.1%	24.16	28.3%
2" meter	103.52	33.02	42.52	31.1%	38.65	28.3%
3" meter	194.10	61.85	79.72	31.1%	72.48	28.3%
4" meter	323.51	103.05	132.87	31.1%	120.79	28.3%

<sup>3</sup> Surcharge authorized by Resolution (Res.) F-632 dated November 22, 1994 to finance plant improvements authorized by Res. F-644 dated March 13, 1996. The surcharge rates shown above are for customers of Oakhurst, Royal Oaks, and Sunnydale. Goldside Hillview, Sierra Lakes, Raymond, and Coarsegold Highlands customers have lesser Co-Bank surcharges.



6" meter	641.01	206.05	265.75	31.4%	241.59	28.5%
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The monthly bill for a typical ¾" metered customer (Oakhurst) using 700 cubic feet of water would increase from \$34.62 to \$42.59 or 23.0% for the first ten years and to \$41.87 or 20.9% thereafter.

The estimated surcharges for customers of the Sierra Lakes district are as follows:

**PROPOSED SURCHARGE SCHEDULE**  
**SIERRA LAKES**

Size of Service or Meter	<u>Years 1-10</u>	<u>Years 11-29</u>
	Monthly Surcharge	Monthly Surcharge
¾-inch meter	\$ 7.97	\$ 7.25
1-inch meter	13.29	12.08
1 ½-inch meter	26.57	24.16

The present rate schedule for water service became effective May 6, 1995 in compliance with a consumer price index increase authorized by Decision (D.) 92-03-93:

**Metered Service**

Quantity Rate : Per 100 cu. ft. . . . \$ 1.29

Service Charge:

Size of Service Or Meter <u>Increase</u>	Present RateCo-Bank <sup>4</sup>		Proposed Monthly Surcharge			
	Per Meter Per Month	Loan Surcharge	Years 1 – 10	Percent Increase	Years 11 – 29	Percent
¾" meter	\$ 19.41	\$ 3.85	\$ 7.97	34.3%	\$ 7.25	31.2%

<sup>4</sup> Surcharge authorized by Resolution (Res.) F-632 dated November 22, 1994 to finance plant improvements authorized by Res. F-644 dated March 13, 1996. The Co-Bank surcharge rates shown above are for customers of Sierra Lakes only.

1" meter	32.35	6.55	13.29	34.2%	12.08	31.1%
1 ½" meter	64.70	12.65	26.57	34.4%	24.16	31.2%

The monthly bill for a typical ¾" metered customer (Sierra Lakes) using 700 cubic feet of water would increase from \$32.29 to \$40.26 or 24.7% for the first ten years and to \$39.54 or 22.5% thereafter.

In accordance with DWR requirements, the 10% reserve will be deposited with a fiscal agent to accumulate a reserve of two semi-annual payments over a 10-year period. Earnings of the reserve fund, net of charges for the fiscal agent's services, will be added to the fund. Net earnings of the reserve fund, together with surcharge amounts and service fees collected from customers, will be used to meet the semi-annual loan payment.

Hillview filed this Application because the DHS has issued an order requiring the utility to comply with the Surface Water Treatment Regulations. Failure to comply with DHS' order would make Hillview subject to additional enforcement action, including civil penalties as specified in CHSC, Sections 116725 and 116730 and would not be in the public interest.

The DHS, our sister agency and a state agency also responsible for the public health and safety of California residents, is fully equipped to establish and enforce water treatment requirements. To the extent that DHS should issue compliance orders to water utilities under our jurisdiction, as it has in this instance, it is our responsibility to provide the regulated utility the means to comply with such an order.

In this Application, Hillview's proposed plant improvements as required by DHS would be paid through surcharge and the plant would

be permanently excluded from rate base. Theoretically the surcharge is a rate increase. But it is not one in the context of a general rate case, step-rate increase, rate base treatment, or in connection with a utility's revenue requirement.

The surcharge will offset Hillview's future loan repayments and not contribute to an increased rate of return. For this reason, the requested surcharge to repay the SDWSRF loan does not have any impact or effect to any assessment that could lead to changes or reduction in Hillview's tariff rates or charges referred to in Ordering Paragraphs 6 and 7 of the OII. In fact, there are conditions unique to a surcharge authorization that ensures proper accounting and handling of this fund. To wit, among others, (1) the surcharge is separately identified on customer's bills; (2) the utility plant financed through the surcharge is permanently excluded from rate base; (3) all rate surcharges collected are deposited with a fiscal agent approved by DWR; and (4) the surcharge rate is adjusted periodically to reflect changes in the number of connections and resulting overages or shortages in the balancing account.

Clearly, with a surcharge authorization, the utility is held responsible for refunding or applying on behalf of the customers any surplus accrued in the balancing account and the utility is directed by the Commission to make a filing whenever a decrease in rate surcharge is warranted.

Because Hillview's request is a SDWSRF financing that compels a simultaneous approval of a source of repayment, we grant Hillview's request pursuant to the provisions of PU Code §§ 816, 817, and 818.

We are aware that Hillview will not be able to obtain the SDWSRF loan until Hillview demonstrates to DWR that it has the source of funds to

be used for repayment of the loan and that such dedicated funds are documented in an ordinance or resolution. Without this low-cost funding, Hillview will not be able to comply with the requirements of DHS and provide adequate, safe and potable water. To the extent that the source of funds requirement remains a condition in DWR's loan policy, Hillview's financing Application cannot be processed and granted without a surcharge authorization.

As stated previously, the surcharge serves only to repay the debt, will not generate any revenue to the utility owners, and will facilitate utility compliance with DHS requirements for safe and potable water. This Commission will authorize Hillview's financing request coupled with the proposed surcharge. The surcharge will be governed by the conditions we will set forth in this decision to ensure proper accounting and handling.

Our action in this proceeding does not prevent or prejudice whatever further action the Commission has or may require of Hillview in its investigatory proceeding under the OII. In addition, our action is one of public necessity and failure on our part to adopt a decision before the OII is completed and decided may cause significant harm to public health or welfare.

By D.88973 (Quincy Water Company 84 CPUC 79), in the first of many decisions which considered our regulatory responsibility in water utilities whose systems fail to meet DHS requirements and which could not obtain "conventional financing" for the necessary DHS improvements, we implemented a ratepayer surcharge method in lieu of the traditional rate base method. In that first decision, we also set policy to govern situations in which there is an opportunity to employ publicly furnished

capital to provide better service and/or lower rates for customers of privately owned utilities. The policy, among other matters, required that a program should contain checks and balances to ensure that there are no unintended windfalls to the utilities, and that unless there are overriding consumer interests, we should not act in a manner that will diminish the lender's security. In particular, we should avoid a solution that arbitrarily creates substantial cash flow deficiencies to the utility or put public funds in jeopardy. As PU Code Section 816 states, the power of public utilities to borrow against utility assets is a "special privilege" that can be granted only by the Commission and the Commission must exercise this privilege appropriately. With a state-funded and rate surcharge type of recovery, the utility or its owners do not personally benefit from the SDWSRF loan. DWR monitors the work and advances funds to a utility periodically as portions of the work are completed (this addresses customers concerns on improvements and project completion and assures that the system will have adequate water supply and better quality of water meeting the safe drinking standards set forth by DHS). The rate surcharge on customers' water bills will be sufficient only to make the principal and interest and reserve payments on the loan. There will be no profit for the utility owners. The surcharge will last until the loan is repaid.

Clearly, the ratepayers ultimately pay for all water system requirements and improvements, regardless of the manner in which they are financed. If the utility were able to borrow the money to make the water system improvements from regular commercial sources, it would be far more expensive for the ratepayers than the low cost state funded loan (in this case the SDWSRF is zero percent interest). Likewise, if the utility

owners invested their own funds to pay for the water system improvements they would be entitled to similar earnings on such funds.

In this Application, Hillview's proposed plant improvements as required by DHS would be paid through surcharge and the plant would be permanently excluded from ratebase. The surcharge will offset Hillview's future loan repayments and not contribute to an increased rate of return.

The Commission has authorized utilities to impose a service fee for new service to vacant and undeveloped lots when such authority is coupled with approval of state funded loan surcharges. The amount of the service fee, subject to a maximum amount of \$2,000, would be the accumulated total of the loan rate surcharge from its inception to the time of service connection. Only the monthly surcharge would apply thereafter.

Hillview is authorized in this Decision to enter into a loan agreement with DWR for the \$3,408,447 loan and upon completion of the project, to institute a surcharge to customers of the Oakhurst and Sierra Lakes districts, to repay the loan with the following conditions:

1. To ensure adequate accountability of the loan construction funds advanced by DWR to the utility, Hillview should deposit all such funds into a separate bank account. All disbursements of such DWR loan funds should be made from this bank account.
2. The plant must be complete before loan payments will be due and payable. Accordingly, customer surcharge will be implemented by separate advice letter filing upon verification and certification by DHS that the plant will be completed within 30 days.

3. The loan repayment surcharge should be separately identified on customers' bills. The utility plant financed through the surcharge should be permanently excluded from rate base for ratemaking purposes.
4. Hillview should deposit all rate surcharges collected with a fiscal agent approved by DWR. Such deposits should be made within 30 days after the surcharges are collected from the customers.
5. Hillview should provide the Director of the Water Division semiannual summaries of transactions including all surcharge and service fee billed to customers, amounts collected, amounts deposited with the fiscal agent, interest earned on deposits, loan payments, charges for services, and any monies in the bank account.
6. The fiscal agent should provide the Director of the Water Division an annual summary detailing the amounts of receipts and disbursements during the year, and identifying the sources of receipts and purposes of the disbursements.
7. The surcharge should be adjusted periodically to reflect changes in the number of connections. Such changes in future rates should be accomplished by normal advice letter procedures.
8. The surcharge to repay the loan should last as long as necessary to repay the loan. The surcharge should not be commingled with other utility charges.
9. Hillview should be responsible for refunding or applying on behalf of the customers of the Oakhurst and Sierra Lakes districts any surplus accrued in the bank account when ordered by the Commission.

10. A service fee will be chargeable to customers requesting future services to currently undeveloped lots and will be the accumulated total of the monthly surcharge as applied to the property being furnished water service from the initial effective date of the surcharge to the date of connection. The maximum service fee will be \$2,000. The service fee will be due and payable upon connection of water service to the property. Thereafter the customer shall pay the applicable tariff rates plus the monthly surcharge.
11. To the extent that the funds would be used for construction of new facilities, Hillview should comply with any applicable environmental regulations for any capital improvement undertaken relative to this decision.
12. Hillview should acquire approval of the construction project from all local, state, and federal agencies having approval responsibilities.
13. Hillview should send to the Director of the Water Division a copy of any engineering report containing the design, specifications and construction of its proposed improvements.
14. Hillview should submit to the Director of the Water Division a quarterly report indicating the status of the construction, including but not limited to cost.
15. Hillview should inform the Director of the Water Division when construction has been completed.
16. Hillview should maintain, and within thirty days from request provide the Director of the Water Division any documents, bank statements, and information related to the loan and surcharge collection.



17. As a condition of the order granted herein, Commission Staff will conduct an annual audit of Hillview's books and the trust account to ensure that the authorized plant is booked properly and accurately, and all activities are in accordance with Commission's rules and regulations.

It is appropriate to emphasize that the surcharge thus authorized will cover only the cost of the loan incurred to finance the improvements and additions discussed herein. It will not preclude any future rate increase requests to recover rising costs of repair, materials, wages, property taxes, power bills, or other operating expenses that may be incurred in the future.

Pursuant to 853(b) of the PU Code, we will also permit Hillview to encumber its property, as long as it serves to secure the debt we are authorizing in this decision.

Resolution (Res.) ALJ 176-3050 dated November 2, 2000, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. Although eleven protest letters were received between December 15 and December 21, 2000, there were no formal protests received after the September 18, 2002 public meeting. Given these developments, a public hearing is not necessary, and there is no need to alter the preliminary determinations made in Res. ALJ 176-3050.

This is an uncontested matter in which the decision pertains solely to a water company. Accordingly, pursuant to PU Code § 311(g)(3), the 30-day period for public review and comment under § 311(g)(1) does not apply.

We approve Hillview's Application in this order.

A.00-10-043 WATER/VDR/RHG

## **FINDINGS**

1. The proposed OSL system improvements are needed to provide safe drinking water and reliable water supply in accordance with the requirements of DHS.
2. The SDWSRF loan provides low-cost capital for the needed water system improvements and is a prudent means of acquiring the necessary \$3,408,447 capital.
3. With a state-funded loan and rate surcharge type of recovery, the utility or its owners do not personally benefit from the SDWSRF loan.
4. The DHS, responsible with the California Public Utilities Commission for the public health and safety of California residents, is best equipped to establish and enforce water treatment requirements.
5. Ordering Paragraph 7 of I.97-07-018 requires any proposals to increase rates and charges be consolidated with that proceeding.
6. D.02-01-041 granted Hillview permission to separately seek rate relief or other authorizations from the Commission if such matter is related to the provision of service.
7. Hillview will not be able to obtain the SDWSRF loan until Hillview demonstrates to DWR that the Commission has approved a rate surcharge in an amount necessary to project compliance with the terms and conditions of the loan.
8. DHS has approved Hillview's proposed improvements for the Oakhurst and Sierra Lakes water system.

9. The proposed borrowing is for proper purposes and the money, property, or labor to be procured or paid for by the proceeds of the loan authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
10. It is in the public interest that the surcharge to repay the loan should begin no earlier than 30 days prior to plant completion as verified and certified by DHS.
11. Authorizing Hillview to encumber its properties as security for the loan is not adverse to the public interest.
12. Hillview's proposed surcharge would generate approximately \$125,231 annually for the first ten years to repay the principal on the proposed borrowing and to accumulate a 10% debt reserve and \$113,846 for the succeeding years.
13. The establishment of a reserve equal to two semi-annual loan payments is required by DWR administrative regulations.
14. The proposed rate surcharge will increase the water rates by \$7.97 per month for approximately 87% of Hillview's Oakhurst-Sierra Lakes customers<sup>5</sup>.
15. Eleven protest letters were received during the third week of December 2000 in response to Hillview's proposed plant improvements and surcharge.
16. A public meeting was held at Oakhurst, California on September 18, 2002 to discuss the proposed project, the SDWSRF loan, and the surcharge rates. No formal protests were received thereafter.

## CONCLUSIONS

1. To the extent that DHS should issue compliance orders to water utilities under our jurisdiction, it is our responsibility to provide the regulated utility the means to comply with such an order.
2. Hillview has a public utility responsibility to maintain its quality of service and to provide necessary repairs and replacements of its present water system.
3. DWR would not grant any SDWSRF loan unless coupled with a surcharge to repay the principal and interest (zero in this case).
4. This proceeding involves public necessity and failure on our part to issue a decision prior to the outcome of the OII may cause significant harm to public health or welfare.
5. Labor to be procured or paid for by the issue of the loan authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
6. The surcharge authorized in Appendices A and B is just and reasonable.
7. Hillview should submit to the Director of the Water Division a certification from DHS when the plant is within 30 days of completion.
8. It is in the public interest that the surcharge on existing water rates be collected upon completion of the project.
9. The rate surcharge to be established to repay the loan should last as long as necessary to repay the loan. Surcharge revenues would not be commingled with other utility charges.

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<sup>5</sup> 877 ¾-inch metered customers divided by 1005 total number of customers.

10. Vacant or undeveloped lots will benefit from the expenditures being made from the proceeds of the SDWSRF loan. The benefits include potentially increased property values and the availability of water furnished by a public utility, which meets health standards.
11. It is reasonable to establish a service fee for new connections pertaining to vacant or undeveloped lots since these lots will benefit from the improvements. This fee should be the equivalent surcharge payment from the initiation of the surcharge.
12. A maximum lump sum service fee of \$2,000 payable upon connection by customers requesting future services to vacant or undeveloped lots is reasonable.
13. The utility plant financed by this SDWSRF loan should be permanently excluded from rate base for ratemaking purposes.
14. Special accounting requirements are necessary to ensure that there are no unintended windfalls to the utility owners. The rate surcharge should be adjusted periodically to reflect changes in the number of connections.
15. Hillview should review annually the rate surcharge and adjust as necessary, by the advice letter procedure, the rate surcharge to reflect changes resulting in overages and shortages in the bank account.
16. Hillview should pay the fee determined in accordance with Public Utilities Code § 1904(b).
17. Today's order should be made effective immediately to enable the utility to promptly proceed with the SDWSRF loan and the project to be financed by that loan.

## **ORDER**

### **THEREFORE, IT IS ORDERED** that:

1. Hillview Water Company (Hillview), on or after the effective date of this order, is authorized to borrow up to \$3,408,447 from the State of California under the Safe Drinking Water State Revolving Fund (SDWSRF) for a period of thirty years at zero-percent interest; to execute and deliver the loan contract with the California Department of Water Resources (DWR); to encumber its assets in connection with the loan; and to use the proceeds for the purposes specified in Application (A.) 00-10-043, as amended and consolidated with Order Instituting Investigation dated July 16, 1997 in I.97-07-018.
2. Hillview is authorized to file in accordance with General Order No. 96-A, and make effective on five days' notice, but not earlier than 30 days prior to completion date of the project as verified by the state Department of Health Services, an advice letter which implements the rate surcharges to customers of the Oakhurst and Sierra Lakes districts attached to this order as Appendices A and B.
3. Hillview shall establish and maintain a separate bank account, to ensure adequate accountability of deposits and disbursements of the SDWSRF loan construction funds advanced by DWR to the utility.
4. A separate line pertaining to the surcharge shall appear on each customer's water bill issued by Hillview.
5. The utility plant or asset financed through the SDWSRF loan shall be permanently excluded from rate base for ratemaking purposes.

6. To assure repayment of the loan, Hillview shall deposit all rate surcharges and service fees collected with a fiscal agent approved by DWR. Such deposits shall be made within 30 days after the surcharges and service fees are collected from customers.
7. Hillview shall provide the Director of the Water Division semiannual summaries of transactions including all surcharge and service fee billed to customers, amounts collected, amounts deposited with the fiscal agent, interest earned on deposits, loan payments, charges for services, and any monies in the bank account.
8. The fiscal agent shall provide the Director of the Water Division an annual summary detailing the amounts of receipts and disbursements during the year, and identifying the sources of receipts and purposes of the disbursements.
9. On or before July 31, 2004, and semiannually thereafter, for as long as the surcharge is imposed, Hillview shall send to the Director of the Water Division a comparative report stating the changes in the number of connections by type of customer and by size of connection, the amount of service fee collected, the outstanding balance of the loan, and the overages and shortages in the utility's balancing account. Hillview shall also indicate in the report if an advice letter will be forthcoming to reflect changes in the surcharge rate.
10. The surcharge to repay the loan shall last as long as necessary to repay the loan, or until further order of the Commission.
11. The surcharge funds shall not be commingled with other utility funds.



12. As a condition of the surcharge rate granted herein, Hillview shall be responsible for refunding or applying on behalf of the customers of the Oakhurst and Sierra Lakes districts any surplus accrued in the bank account when ordered by the Commission.
13. A service fee shall be charged to customers requesting future services to currently undeveloped lots and shall be the accumulated total of the monthly surcharge as applied to the property being furnished water service from the initial effective date of the surcharge to the date of connection. The maximum service fee shall be \$2,000. The service fee shall be due and payable upon connection of water service to the property. Thereafter the customer shall pay the applicable tariff rates plus the monthly surcharge.
14. To the extent that the funds would be used for construction of new facilities, the utility shall comply with any applicable environmental regulations for any capital improvement undertaken relative to this decision.
15. Hillview shall obtain approval of the construction project from all local, state, and federal agencies having approval responsibilities.
16. Hillview shall send to the Director of the Water Division a copy of any engineering report containing the design, specifications, and construction of its proposed improvements.
17. Hillview shall submit to the Director of the Water Division a quarterly report indicating the status of the construction, including but not limited to cost.
18. Hillview shall inform the Director of the Water Division when construction has been completed.

19. Hillview shall file with the Director of the Water Division a copy of the DWR loan agreement and promissory note within 15 days of execution.
20. Hillview shall maintain, and within thirty days upon request provide the Director of the Water Division any documents, bank statements, and information pertaining to the SDWSRF loan and surcharge collection.
21. As a condition of the order granted herein, Commission Staff will conduct an annual audit of Hillview's books and the trust account to ensure that the authorized plant is booked properly and accurately, and all activities are in accordance with Commission's rules and regulations. The Director of the Water Division shall report the results to the Commission.
22. The authority granted by this order shall become effective when Hillview pays \$4,408, the fee set forth by Public Utilities Code § 1904, to the Commission.
23. This order does not prejudice any issue pertaining to Investigation 97-07-018.
24. A.00-10-043 is closed.

This order is effective today.

Dated November 7, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
CARL W. WOOD  
GEOFFREY F. BROWN  
MICHAEL R. PEEVEY  
Commissioners

## APPENDIX A

## Schedule No. 2

## METERED SERVICE SURCHARGE

APPLICABILITY

Applicable to all metered service. This surcharge is specifically for the repayment of the Safe Drinking Water State Revolving Fund loan as requested in Application 00-10-043 filed on October 19, 2000 and amended March 15, 2001.

TERRITORY

Oakhurst-Sierra Lakes.

LOAN REPAYMENT SURCHARGE

Size of Service or Meter	<u>Years 1-10</u>	<u>Years 11-29</u>
	Monthly Surcharge	Monthly Surcharge
¾-inch meter	\$ 7.97	\$ 7.25
1-inch meter	13.29	12.08
1 ½-inch meter	26.57	24.16
2-inch meter	42.52	38.65
3-inch meter	79.72	72.48
4-inch meter	132.87	120.79
6-inch meter	265.75	241.59

SPECIAL CONDITIONS

1. This surcharge is in addition to the water bill and the Co-Bank Loan Surcharge. The surcharge is specifically for the repayment of the Safe Drinking Water State Revolving Fund loan authorized by Decision No. 02-11-015.

2. The monthly surcharge rates are subject to periodic adjustment.

## APPENDIX B

### Schedule No. 2-A

#### SAFE DRINKING WATER STATE REVOLVING FUND LOAN UNDEVELOPED LOT CHARGE

#### APPLICABILITY

Applicable to undeveloped lots within the Oakhurst-Sierra Lakes service territory of Hillview Water Company, Inc.

#### RATES

A service charge to provide for reduction of the Safe Drinking Water State Revolving Fund loan surcharge is chargeable to customers requesting future service to undeveloped lots.

The service charge shall be the accumulated total of the surcharges provided for in Schedule No. 2, as applied to the property being furnished water service from the effective date of this advice letter to the date of connection. The maximum service charge shall be \$2,000. The service charge shall be due and payable upon connection of water service to the lot. The surcharge authorized by the Commission, as contained in Schedule No. 2 will apply thereafter.